IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CEA No.88 of 2006
Date of decision:29.11.2007

Commissioner of Central Excise
Commissioner, Jalandhar

.....Petitioner

Versus

M/s Triplex India **.....Respondent**

CORAM:- HON'BLE MR.JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

* * *

Present: Mr. Gupreet Singh, Advocate for the appellant.

Mr. Sudhir Malhotra, Advocate for the respondent.

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M.M.Kumar, J .

This appeal filed by the revenue under Section 35(G) of the Central Excise Act, 1944 (for brevity 'the act') is directed against order dated 15.6.2005 (P-3) passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (for brevity 'the Tribunal) challenging the deletion of penalty imposed on the assessee-respondent. It has been found by the Tribunal that Section 11 AC of the Act could not be invoked because there is no firm finding recorded by any authority with regard to the mensrea or intention to evade revenue. Even otherwise, the amount of duty was paid before the issuance of show cause notice as has been found by the Tribunal. In that regard reliance may be placed on the Division Bench judgement of this Court in the case of **CCE Ludhiana v. Sigma Steel Tubes** 2007 (82) RLT 361.

In view of the above, we do not find any ground to interfere in

the impugned order dated 15.6.2005 passed by the Tribunal. Accordingly the appeal is dismissed.

(M.M.Kumar)
Judge

November 29, 2007 **(Ajay Kumar Mittal)**
paramjit/ps **Judge**